



structure and condition (arriving). Knowledge of supervision was measured by questions in both scenarios, and was scored for each. For the evolving scenario, candidates were provided with a 15-minute preparation period, and candidates had 10 minutes to respond. For the arriving scenario, a five-minute preparation period was given, and candidates had 10 minutes to respond.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, firefighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

Candidates were rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. For each of the scenes, and for oral communication, the requirements for each score were defined.

For the evolving scenario, the appellant scored a 4 for the technical component, a 4 for the supervision component, and a 5 for the oral communication component. For the arriving scenario, the appellant scored a 3 for the technical component, a 4 for the supervision component, and a 4 for the oral communication component. The appellant challenges his scores for the technical and oral communication components of the arriving scenario. As a result, the appellant's test material, video, and a listing of PCAs for the scenarios were reviewed.

The arriving scenario involved a train/pedestrian collision. The pedestrian is sprawled on the road and not moving. She is reported to be deceased by a member of the railroad's company maintenance crew. Some train passengers were thrown forward in the incident and report injuries. Question 1 asked candidates to perform an initial report upon arrival using proper radio protocol. Question 2 asked for specific actions to be taken after the initial report.

For the technical component, the assessor indicated that the appellant failed to ensure all rail service is shut down on the line/flaggers, which was a mandatory response to question 2. Also, he indicated that the appellant missed the opportunity to indicate that he was preparing for offensive operations, which was another

response for question 1. The assessor assigned a score of 3 using the “flex rule.” On appeal, the appellant states that he appointed a Safety Officer.

Regarding the flex rule, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response. The flex rule was designed to allow the SMEs to assign a score of 3 to candidates who fail to give a mandatory response but who provide many additional responses. However, the SMEs cannot provide a score higher than a 3 in those cases. All mandatory responses must be given in order for a performance to be acceptable, whether there is one mandatory response or five of them. It is not assumed that candidates receive a score of 5 which is then lowered for lack of responses. Performances that include mandatory responses get a score of 3, and those without mandatory responses get a score of 1 or 2, unless the flex rule is used. Additional responses only increase a score from 3 to 4 or from 3 to 5.

A review of the appellant’s presentation indicates that he stated, “At this time, I’m going to request rescue, an additional alarm, train company to shut down all track, all track power, electricity, or any steam, any engine power.” For this response, the appellant received credit for ensuring that the engines were turned off. However, shutting down all track power does not ensure that all rail service is shut down on the line, as diesel trains may be in use. The appellant did not mention flaggers. He missed this mandatory response, and the additional response, and his score of 3 using the flex rule is correct.

For the oral communication component, the assessor noted a minor weakness, stating that he failed to speak at an appropriate rate throughout the presentation between actions (“one second”). On appeal, the appellant states that his presentation was clear, concise, and specific and his moments taken to assess the situation were short and did not hinder his ability to present information.

In reply, a weakness in Inflection/Rate/Volume is defined as failed to speak at an appropriate rate (long pauses/too fast/stumbles), maintaining appropriate pitch and volume, and using pitch to convey meaning or emphasis. It was acceptable to pause occasionally to look at notes, however, if at some point it becomes distracting, it is a weakness. A review of the presentation indicates that the appellant first said, “Give me a second to look at my notes.” The next time, he stated, “Give me one second.” Three more times he stated, “One second,” then he said, “Excuse me one second.” Four more times he stated, “One second.” There were also pauses when he said nothing. As the appellant indicated “one second” ten times in his presentation, it was a distraction that warrants a deduction. The score of 4 for this component will not be changed.

## CONCLUSION

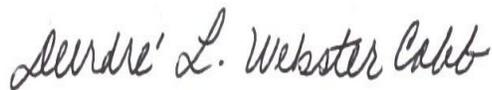
A thorough review of the appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

## ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 12<sup>th</sup> DAY OF JUNE, 2019



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